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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,765	11/18/2003	Robert E. Sinclair II	4010	5254
7590	10/20/2005		EXAMINER	
Law Offices of Albert S. Michalik, PLLC Suite 193 704-228th Avenue NE Sammamish, WA 98074			PIERRE, MYRIAM	
			ART UNIT	PAPER NUMBER
			2654	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/715,765	SINCLAIR, ROBERT E.
	Examiner Myriam Pierre	Art Unit 2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 November 2003.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-44 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-44 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-30, 35-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Bear et al. (2004/0225502).

As to claim 1, Bear et al. teach a computer-readable medium having computer-executable instructions (page 3 paragraph 35 and page 6 paragraph 70), comprising: providing a set of modes (page 5 paragraph 56) for interacting with a computing device (record button for a camera), at least some of the modes selectable by a user of the computing device (record button to change modes), the modes being associated with settings of the computing device (actuation method (hold modes) map may be user configurable to match a given user's needs, voice commands used to switch modes or distinguish commands from text or icons are clicked), the computing device interacting with the user in a first mode (record mode, page 5 paragraph 54-56 and 58 and page 6 paragraph 64);

detecting a characteristic of an environment of the computing device (audio recording), the characteristic having changed (no audio input received while recording) (page 6 paragraph 63; while recording, if no audio input has been received, a recording mode times out, after some warning, maybe via the LED recording indicator, thus the device has detected a characteristic of an environment);

determining at least one of the settings to change in response to the changed characteristic (warning, LED recording indicator; yellow record light when speech-to-text recognition is active, flash pattern may indicate no sufficient sounds have been detected and recording will soon stop automatically unless the user starts or resumes page 5 paragraph 64 and page 6 paragraph 67); and

changing the at least one of the settings (mute button) to cause the computing device to interact with the user in a second mode (video only recording, page 6 paragraph 64-65 and 69-70).

As to claim 2, Bear et al. disclose all the limitations of claim 1, upon which claim 2 depends on, Bear et al. further disclose:

querying the user as to whether the user wants to interact with the computing device in the second mode (Fig. 8 via the transport operation, when in “still capture” pressing play/pause or record GUI pause to give the user option of video and/or audio recording, thus querying the user because user has to select the mode operations in order to continue to record voice and/or image).

As to claim 3, Bear et al. disclose all the limitations of claim 1, upon which claim 3 depends on, Bear et al. further disclose:

changing the setting is automatically done (recording stop automatically) in response to the characteristic having changed (no sufficient sounds have been detected, page 6 paragraph 67).

As to claim 4, Bear et al. disclose all the limitations of claim 1, upon which claim 4 depends on, Bear et al. further disclose:

the characteristic is a light incident to a display of the computing device (flash pattern may indicate no sufficient sound detected, LED record light, page 6 paragraph 67).

As to claim 5, Bear et al. disclose all the limitations of claim 4, upon which claim 5 depends on, Bear et al. further disclose:

wherein before the setting is changed, the display displays at a first intensity and wherein after the setting is changed, the display displays at a second intensity (one flash to indicate active but noisy, another flash pattern indicate no sufficient sounds have been detected, page 6 paragraph 67; before user knows to change settings, the intensity of light in the form of flashes indicate to the user via a display (LED)).

As to claim 6, Bear et al. disclose all the limitations of claim 4, upon which claim 6 depends on, Bear et al. further disclose:

wherein the setting causes output to come from an audio device (page 5 paragraph 56; and page 6 paragraphs 65 and 68):

As to claim 7, Bear et al. disclose all the limitations of claim 6, upon which claim 7 depends on, Bear et al. further disclose:

wherein the output is speech (audio visual data; page 6 paragraphs 65 and 68; audio data inherently includes the output of speech when recording button is added to camereaa).

As to claim 8, Bear et al. disclose all the limitations of claim 5, upon which claim 8 depends on, Bear et al. further disclose:

detecting that the characteristic has changed again and in response adjusting the display to display at the first intensity (page 6 paragraph 67; light pattern change in intensity via flashes. Adjusting display because of detected change in characterisitcs is inherent in video cameras, such as in fuzzy pictures).

As to claim 9, Bear et al. disclose all the limitations of claim 1, upon which claim 9 depends on, Bear et al. further disclose:

wherein the characteristic is an ambient noise surrounding the computing device (flash pattern indicate active but noisy, page 6 paragraph 67).

As to claim 10, Bear et al. disclose all the limitations of claim 9, upon which claim 10 depends on, Bear et al. further disclose:

wherein before the setting is changed, a speaker associated with the computing device outputs sound at a first volume and wherein after the setting is changed, the speaker outputs sound at a second volume (page 6 paragraph 69; when setting

change, such as the mute button is pressed, the second volume output is different or a change from the first).

As to claim 11, Bear et al. disclose all the limitations of claim 9, upon which claim 11 depends on, Bear et al. further disclose:

wherein a speaker associated with the computing device stops outputting sound when the ambient noise is greater than or equal to a inherent threshold (page 6 paragraph 63; like with background noise or ambient noise, the suspension of recording may be performed via an inherent threshold in order for the suspension decision to be performed, thus the speaker or playback of the noise is stopped during that period of time).

As to claim 12, Bear et al. disclose all the limitations of claim 1, upon which claim 12 depends on, Bear et al. further disclose:

wherein detecting the characteristic is accomplished via at least one of a microphone (record button with microphone and/or camera, page 4 paragraph 42).

As to claim 13, Bear et al. disclose all the limitations of claim 1, upon which claim 13 depends on, Bear et al. further disclose:

wherein detecting the characteristic comprises inherently detecting that a device has been attached to the computing device (removable media, page 4 paragraph 42;

removable media inherently detects device attached to the computing device such as the microphone button).

As to claim 14, Bear et al. disclose all the limitations of claim 1, upon which claim 14 depends on, Bear et al. further disclose:

wherein detecting the characteristic comprises inherently detecting that a device has been unattached from the computing device (removable media, page 3 paragraphs 37 and 42; removable media inherently detects device unattached to the computing device such as the microphone button).

As to claim 15, Bear et al. disclose all the limitations of claim 1, upon which claim 15 depends on, Bear et al. further disclose:

storing a user preference related to at least one setting in a removable storage medium (digital versatile disk, add-on set of control buttons, page 3 paragraph 37 and page 4 paragraph 42).

As to claim 16, Bear et al. disclose all the limitations of claim 15, upon which claim 16 depends on, Bear et al. further disclose:

attaching the removable storage medium to another computing device, wherein the other computing device obtains the user preference from the removable storage medium (digital versatile disk, add-on set of control buttons, cellular telephone, and

computer system, page 3 paragraph and page 4 paragraphs 42-43 and page 4 paragraph 56; user preferences are the settings).

As to claim 17, Bear et al. disclose all the limitations of claim 16, upon which claim 17 depends on, Bear et al. further disclose:

wherein the other computing device downloads an application in response to the user preference (page 3 paragraph 38; and page 4 paragraphs 42-43).

As to claim 18, Bear et al. disclose all the limitations of claim 17, upon which claim 18 depends on, Bear et al. further disclose:

wherein the application is a screen reader indicated by the user preference (touch screen panel, page 3 paragraph 38).

As to claim 19, Bear et al. disclose all the limitations of claim 16, upon which claim 19 depends on, Bear et al. further disclose:

wherein the other computing device installs a driver in response to the user preference (page 3 paragraph 37).

As to claim 20, Bear et al. disclose all the limitations of claim 19, upon which claim 20 depends on, Bear et al. further disclose:

the other computing device uninstalls the driver after the user removes the removable storage medium from the other computing device (inherent in windows, page 5 paragraph 52 and page 6 paragraph 65).

As to claim 21, Bear et al. disclose all the limitations of claim 1, upon which claim 21 depends on, Bear et al. further disclose:

storing a user preference related to at least one setting on a server (page 4 paragraph 44).

As to claim 22, Bear et al. disclose all the limitations of claim 21, upon which claim 22 depends on, Bear et al. further disclose:

device accesses the user preference from the server and interacts with the user in accordance with the user preference (page 4 paragraph 44 and page 2 paragraph 32, user may navigate through voice mail messages even when computer system is powered down, page 4 paragraph 44; thus access via user preference from server (internet) according to user preference).

As to claim 23, Bear et al. disclose all the limitations of claim 1, upon which claim 23 depends on, Bear et al. further disclose:

wherein the input or output device comprises an application executing on the computing device (camera, cellular phone, page 4 paragraph 43).

As to claim 24, Bear et al. teach a computer-readable medium having computer-executable instructions (page 3 paragraph 35 page 6 paragraph 70), comprising:

    a plurality of applications, the applications executable by a computing device, each application having one or more settings associated therewith, at least one of the settings indicating a mode for interacting with a user of the application associated with the setting (page 4 paragraph 43 and page 5 paragraphs 55-57 );

    detecting that a characteristic of an environment of the computing device has changed; changing at least one of the settings in response, the at least one of the settings changed affecting a mode in which the computing device interacts with the user (record mode and diction mode, page 5 paragraph 55 and page 4 paragraph 47).

As to claim 25, Bear et al. disclose all the limitations of claim 24, upon which claim 25 depends on, Bear et al. further disclose:

    wherein changing the at least one of the settings occurs automatically (page 6 paragraph 67).

As to claim 26, Bear et al. disclose all the limitations of claim 24, upon which claim 26 depends on, Bear et al. further disclose:

    asking the user whether the user wants the computing device to interact with the user in a different mode (one flash to indicate active but noisy, another flash pattern indicate no sufficient sounds have been detected, page 6 paragraph 67 and page 5

paragraph 55, thus, based on flash patterns, the user is being asked whether to interact in a different mode, such as via command and control mode).

As to claim 27, Bear et al. disclose all the limitations of claim 24, upon which claim 27 depends on, Bear et al. further disclose:

wherein the mode comprises a set of devices with which the computing device communicates with the user (page 3 paragraph 37 and page 4 paragraph 43).

As to claim 28, Bear et al. disclose all the limitations of claim 24, upon which claim 28 depends on, Bear et al. further disclose:

wherein the mode comprises a characteristic of a font (page 5 paragraph 55, page 2 paragraph 32, page 3 paragraph 38, and page 6 paragraph 65; application system send text, and personal computer in which operating system has option for user to adjust fonts, as in Microsoft Word).

As to claim 29, Bear et al. disclose all the limitations of claim 28, upon which claim 29 depends on, Bear et al. further disclose:

wherein the characteristic of the font includes at least one of a size (page 5 paragraph 55, page 2 paragraph 32, page 3 paragraph 38, page 5 paragraph 52 and page 6 paragraph 65; application system send text, and personal computer in which operating system has option for user to adjust font size, as in Microsoft Word).

As to claim 30, Bear et al. disclose all the limitations of claim 24, upon which claim 30 depends on, Bear et al. further disclose:  
wherein the mode comprises a set of features provided to user (page 5 paragraph 55).

As to claim 35, Bear et al. disclose all the limitations of claim 24, upon which claim 35 depends on, Bear et al. further disclose:  
retrieving preferences associated with the user (page 5 paragraph 55).

As to claim 36, Bear et al. disclose all the limitations of claim 35, upon which claim 36 depends on, Bear et al. further disclose:  
wherein the preferences relate to at least one of appearance (default/customize patterns) (page 6 paragraph 64-65).

As to claim 37, Bear et al. a system for interacting with a user, comprising:  
one sensor configured to sense changes in an environment of the system (page 6 paragraph 63; inherent sensor when detecting background noise level);  
one input device configured to enter input into the system (page 3 paragraph 38);  
one output device configured to output data to the user (page 3 paragraph 38; monitor and/or touch screen panel); and  
an engine configured to receives data from the one sensor and determine a mode in which the system interacts with the user (speech recognition engine

employed in command-and-control scenarios; modes of recording operation can be command-and-control, inherent sensor when detecting background noise level; page 5 paragraphs 53 and 55 and page 6 paragraph 63).

As to claim 38, Bear et al. disclose all the limitations of claim 37, upon which claim 38 depends on, Bear et al. further disclose:

wherein the mode in which the system interacts with the user depends at least in part on at least one of the changes in the environment of the system ( page 6 paragraph 63; warning, LED recording indicator, like with background noise if user becomes distracted, suspension of actual recording may be performed).

As to claim 39, Bear et al. disclose all the limitations of claim 37, upon which claim 39 depends on, Bear et al. further disclose:

wherein a change of the environment includes a change in light (page 6 paragraph 67).

As to claim 40, Bear et al. disclose all the limitations of claim 39, upon which claim 40 depends on, Bear et al. further disclose:

the one or more output devices include a display (LED, page 5 paragraph 50) and wherein the engine causes the display to display at a different intensity in response to the change in light (page 6 paragraph 67, color or flash patterns varied to provide information; different intensity is flash pattern).

As to claim 41, Bear et al. disclose all the limitations of claim 39, upon which claim 41 depends on, Bear et al. further disclose:

wherein the one or more output devices include a speaker (page 3 paragraph 38) and wherein the engine causes output to be directed to the speaker when the change in light passes a threshold (text-to-speech recognition, yellow indication, page 6 paragraph 67 and page 6 paragraph 53; speech recognition engine can be employed in command-and-control scenarios).

As to claim 42, Bear et al. disclose all the limitations of claim 37, upon which claim 42 depends on, Bear et al. further disclose:

wherein the one sensor detect that the user has a problem associated with entering data via an inherent keyboard (page 3 paragraph 38; keyboard problems are inherently detected when using multi-interface devices such as a keyboard).

As to claim 43, Bear et al. disclose all the limitations of claim 42, upon which claim 43 depends on, Bear et al. further disclose:

wherein the problem comprises a difficulty in pressing multiple keys at once (page 3 paragraph 38; keyboard problems are inherently detected when Microsoft word products such as pressing multiple keys at once).

As to claim 44, Bear et al. disclose all the limitations of claim 43, upon which claim 44 depends on, Bear et al. further disclose:

wherein in response to detecting that the user has difficulties in pressing multiple keys at once, the engine queries the user whether the user would like to have sticky keys enabled, sticky keys logically causing a first key to remain depressed until a second key is depressed (double press hold) (page 5 paragraph 53 and paragraph 56; double press hold is an option setting which allows the user, who may have trouble pressing multiple keys at once, to continue to press the key, thus acting as an enabled sticky key).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bear et al. as applied to claim 37 above, and further in view of Ron (5,647,834).

As to claim 31, Bear et al. disclose all the limitations of claim 24, upon which claim 31 depends on, Bear et al. does not disclose detecting anxiety level.

However, Ron discloses

detecting when an anxiety level of the user has increased and simplifying the set of features provided to the user in response (col. 7 lines 18-23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement Bear's audiovisual record button with Ron's speech-

based biofeedback method because the subject can learn to control his emotion by controlling his speech, wherein the emotional state of the subject, which has its own specific speech characteristics depends on the subject's psychological state, as taught by Ron col. 5 lines 4-9.

As to claim 32, Bear et al. disclose all the limitations of claim 31, upon which claim 32 depends on, Bear et al. does not disclose anxiety galvanic skin response strip.

However, Ron discloses wherein the anxiety level is detected via a galvanic skin response strip (col. 7 lines 30-40 and col. 11 lines 29-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement Bear's audiovisual record button with Ron's galvanic skin strip biofeedback method because this would allow for the fact that some people cannot speak emotionally, the system provides an option to record other physiological variables sensitive to emotions such as heart rate galvanic skin resistance, as taught by Ron col. 7 lines 17-21.

As to claim 33, Bear et al. disclose all the limitations of claim 24, upon which claim 33 depends on, Bear et al. further disclose wherein detecting that a characteristic of the environment has changed

Bear et al. does not disclose this change comprises of detectign when a new user has interacted with computing device.

However, Ron discloses detecting that a new user has started interacting with the computing device (col. 12 lines 10-13 and col. 11 lines 29-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement Bear's audiovisual record button with Ron's speech training method because this would allow a unique template for a new user, thus the speech characteristics of the second subject are used to characterize the speaker by a unique template, thus when either speaker speaks, the computer identifies the subject and evaluates his emotional states so that the correct fed back signal is transmitted to him (Ron col. 11 lines 29-41).

As to claim 34, Bear et al. disclose all the limitations of claim 33, upon which claim 34 depends on,

Bear et al. does not disclose detecting storage associated with the new user. However, Ron discloses wherein detecting that a new user has started interacting with the computing device comprises detecting that a storage medium has been attached to the computing device, the storage medium including preferences associated with the new user (col. 12 lines 41-44 and col. 12 lines 10-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement Bear's audiovisual record button with Ron's galvanic skin strip biofeedback method because the system can identify and separate the speech of different children, the child's speech characteristics is stored in the storage device, as taught by Ron col. 11 lines 58-61 and col. 12 lines 10-13.

*Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Myriam Pierre whose telephone number is 571-272-7611. The examiner can normally be reached on Monday - Friday from 5:30 a.m. - 2:00p.m.

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information as to the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

09/22/2005 MP



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